

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:04cv92**

**W. KELLEY BRASWELL, M.D.,**

**Plaintiff,**

**Vs.**

**HAYWOOD REGIONAL MEDICAL  
CENTER; HARRY LIPHAM, M.D.;  
ERIC REITZ, M.D.; DEBERA HUDERLY,  
M.D.; LUIS MUNOZ, M.D.; DAVID  
PETERSON, M.D.; CHRISTOPHER  
WENZEL, M.D.; and RICHARD STEEL,  
M.D.,**

**Defendants.**

**ORDER**

**THIS MATTER** is before the court a written Motion for Hearing contained in defendants' Motion for Summary Judgment. While this court typically resolves fully briefed motions on the written record, an exception will be made based on the complexity of the issues presented. Prior to allowing such hearing, the court has thoroughly reviewed the arguments of the respective parties and asks that the parties be prepared to address a few concerns of the court, including: (1) whether the initiation of the professional inquiry by plaintiff's own partner, Dr. Freeman, serves as a break in any causal relationship between plaintiff's speech and the termination of plaintiff's privileges, limiting plaintiff's first amendment claim to the alleged harm that occurred when the hospital withdrew its support for the physician he recruited; and (2) whether a genuine issue of material fact exists concerning whether "quick action was needed" that would justify reliance on post deprivation remedies; put differently, is determination of whether "quick action was needed" an issue of fact for the jury (and a subjective one) or a question of law for the court.

## **ORDER**

**IT IS, THEREFORE, ORDERED** that defendants' Motion for Hearing is **ALLOWED**, and the pending Motion for Summary Judgment shall be heard on Friday, November 18, 2005, at 2 p.m., in Asheville. Such hearing shall be limited to oral arguments and shall not be an "evidentiary hearing."

Respective counsel are further advised to file a notice concerning the results of court-ordered mediation prior to such hearing.

**Signed: October 31, 2005**

*Dennis L. Howell*

---

Dennis L. Howell  
United States Magistrate Judge

